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|  <p>P.O. Box 99, 1133 NYS Route 86<br/>Ray Brook, New York 12977<br/>Tel: (518) 891-4050<br/>www.apa.ny.gov</p>                   | <b>[DRAFT] APA Project Order<br/>2021-0276</b> |
|                                                                                                                                                                                                                    | Date Issued: 11/     /2025                     |
| <p>In the matter of the application of</p> <p><b>Unconventional Concepts, Inc., and<br/>Michael Hopmeier</b></p> <p>subject to section 809 of the Adirondack Park<br/>Agency Act and 9 NYCRR Parts 573 and 574</p> |                                                |

## INTRODUCTION

On November 19, 2021, the Adirondack Park Agency (Agency) received an application to undertake a Class B Regional Project, in the Town of Lewis, Essex County. The applicant proposes to develop a weapons range for testing the internal ballistics of 155 mm howitzer cannon barrels over a 5-year period (the proposed “howitzer testing range”).

The howitzer testing range utilizes two parcels both located on land classified as Rural Use in the official Adirondack Park Land Use and Development Plan Map: (1) Tax Map Number 38.1-1-29.00 (8± acres), located at 87 Hale Hill Lane, is owned by Diversified Upstate Enterprises, LLC (Lot 29), and will be used to store equipment associated with testing; and (2) Tax Map Number 38.1-1-31.000 (197± acres), located at 195 Hale Hill Lane, is owned by Pulsifer Logging LLC (Lot 31). The applicant will be granted access to Lot 31 to perform the testing. The applicant intends to use a logged area on Lot 31 that backs up to Big Church Mountain as the howitzer testing range. The proposed testing site is located approximately 300 feet from the closest point of Taylor Pond Wild Forest, 2.1 miles from the closest point of Jay Mountain Wilderness, 4.7 miles from the closest point of Hurricane Mountain Wilderness. There are 44 residences located within two miles of the howitzer testing range. The howitzer testing range is 3.2 miles from the hamlet of Lewis and within 1.5 miles of the surrounding Moderate Intensity Use residential area. The project site is also located 10.8 miles from Lake Champlain.

A portable 155mm howitzer barrel assembly is proposed to be placed on a 100-foot by 100-foot crushed gravel pad and test-fired on Lot 31. Each test would fire a steel projectile into a target area. No explosive warheads are proposed to be used. The

howitzer assembly is proposed to be fired up to 30 times per year on weekdays, between the hours of 10am and 4pm. The applicant proposes to place a kinetic energy-absorbing system (soft catch system) at the eastern side of the range to catch projectiles fired. The soft catch system would consist of an 8-foot by 8-foot by 40-foot long metal shipping container or similar filled container with sand and other material to stop the projectiles.

Additional proposed equipment includes a mobile power supply such as a generator on a trailer, portable instrumentation carriers, a trailer, a port-a-potty, and other mobile support equipment. In between test series, all trailers and equipment would be removed from Lot 31 and stored on Lot 29.

Between November 2021 and July 2025, Agency staff issued six Notices of Incomplete Permit Application. The applicant responded to the last notice on September 11, 2025 and Agency staff deemed the application complete on September 26, 2025, at which point Agency staff commenced their formal review. The matter comes to the Agency for a determination pursuant to 9 NYCRR 580.2 with respect to a project hearing. The Agency herein directs the matter to a formal project hearing pursuant to Adirondack Park Agency Act (APA Act) § 809.

## **FINDINGS**

- I. In addressing the applicable criteria in 9 NYCRR 580.2, the record before the Agency supports the following conclusions:

- (1) “The size and/or complexity of the project, whether measured by cost, area, effect upon municipalities, or uniqueness of resources likely to be affected.”

The proposed activity is unique – the Agency has not permitted a howitzer testing range facility, nor is it aware of any existing facility of this type in the Adirondack Park. The howitzer testing range has the potential to affect the natural, scenic, ecological, wildlife, recreational, and open space resources of the park, including but not limited to: potential discharges, residues, or other pollutants that may affect water, air and land resources; noise impacts produced by the howitzer testing range; unknown disruption to native and migrating wildlife and their habitats at or near the proposed project site considering species’ sensitivities; and the impacts to adjoining and nearby land uses, including but not limited to effects on the residents of the Town of Lewis, impact to property values in the area, the community character and quality of life of the residents of the Town of Lewis, and health and safety impacts relating to the howitzer testing range, and the operation, storage and transport of military equipment outside of a designated military-controlled area.

- (2) “The degree of public interest in the project, as evidenced by communication from the general public, governmental officials or private organizations.”

- a. The level of public interest in this project is evidenced by the receipt of over 1,400 comments, the level of media coverage, and the scope of issues raised. Of the over 1,400 comments received, 19 comments expressed support for the project; the remaining raised concerns. Approximately 15 of the 44 residences within two miles of the howitzer testing range submitted comments.
- b. The comments were received from concerned individuals, including adjoining and nearby landowners, residents outside the Park, a regional media editorial board, and regional and local environmental advocacy organizations.
- c. The topics addressed in the comments include the following:
  - i. The permit application contains inaccurate, misleading, or internally inconsistent information with the applicant’s public statements and actions.

- ii. Issues raised about the applicability, accuracy, reliability, and scientific value of the sound study provided by the applicant.
  - iii. Concerns about the potential impact of noise on human health and safety, wildlife, and compatibility with the commercial, recreational, and residential uses.
  - iv. Concerns about potential pollutants related to the proposed activity.
  - d. The project received significant media coverage following the Agency's public notice period from October 1, 2025 to October 30, 2025. Approximately 97% of all comments were received during this period.
  - e. The applicant held a public information meeting in the Town of Lewis on October 16, 2025. According to a North Country Public Radio article, approximately 75 members of the public attended the meeting, and raised concerns and objections to the project similar to the written comments received by the Agency.
- (3) "The presence of significant issues relating to the criteria for approval of the project."

The proposed howitzer testing range requires more information to determine whether it can meet Agency approval criteria set forth in APA Act § 809(10)(a) and (b) concerning the land use and development plan and the compatibility of the project with the character and purposes of land classified as Rural Use and APA Act § 809(10)(e) concerning the development considerations in APA Act § 805(4) and 9 NYCRR 574.5; for example:

- a. Is a howitzer testing range compatible with the Adirondack Park Land Use and Development Plan? [APA Act § 809(10)(a)]
- b. Is the howitzer testing range compatible with the character description and purposes, policies and objectives of the Rural Use land area classification? [APA Act § 809(10)(b)] The APA Act describes the character in Rural Use Areas as being those areas where natural resource limitations and public considerations necessitate fairly stringent development constraints. The basic purpose and objective of Rural Use areas is to provide for and encourage those rural land uses that are consistent and compatible with the relatively low tolerance of the areas' natural resources and the preservation of the open spaces that are essential and basic to the unique character of the park. [APA Act § 805(3)(f)]

- c. Will a howitzer testing range have an undue adverse impact upon the natural, scenic, ecological, wildlife, recreational or open space resources of the park, considering the following development considerations described in APA Act § 805(4) and 9 NYCRR 574.5:
  - i. Whether there are impacts to water, land, and air resources [APA Act § 805(4)(a)(1) – (3)];
  - ii. Whether there are noise impacts [APA Act § 805(4)(a)(4)];
  - iii. Whether there are impacts to Critical Resource Areas and Wildlife. [APA Act § 805(4)(a)(5) – (6)]; and
  - iv. Whether there are impacts to adjoining and nearby land uses. [APA Act § 805(4)(c)(2)(a)]

Information currently available is insufficient to make a determination as to any of these approval criteria. A public hearing would help to develop these issues and may reveal additional issues relating to other approval criteria.

- (4) “The possibility that the project can only be approved if major modifications are made or substantial conditions are imposed.”

Based on the current information available, the Agency is unaware of any modifications or substantial conditions the Agency could impose that would address the potential impacts outlined above. However, more information could develop during a hearing that could support the approvability or deniability of the project, and/or reveal conditions that could be imposed.

- (5) “The possibility that information presented at a public hearing would be of assistance to the agency in its review.”

The howitzer testing range raises unique issues and has the potential to affect the natural, scenic, ecological, wildlife, recreational, and open space resources of the park, including but not limited to: potential discharges, residues, or other pollutants that may affect water, air and land resources; noise impacts produced by the howitzer testing range; unknown disruption to native and migrating wildlife and their habitats at or near the proposed project site considering species’ sensitivities; and the impacts to adjoining and nearby land uses, including but not limited to effects on the residents of the Town of Lewis, impact to property values in the area, the community character and quality of life of the residents of the Town of Lewis, and health and safety impacts relating to the howitzer testing range, and the operation, storage and transport of military equipment outside of a

designated military-controlled area.

A hearing would also help address and resolve concerns about inconsistent, incorrect, or misleading information, including but not limited to concern about the applicability, accuracy, reliability, and scientific value of the sound study conducted by the applicant as it applies to a howitzer testing range.

A public hearing would facilitate the receipt of testimony to address these issues. This information would help the Agency make the findings and determinations it is required to make under the APA Act.

(6) “The extent of public involvement achieved by other means.”

The Agency is not aware of other government approvals or public hearings required to review the howitzer testing range by which the public may participate in the consideration of the proposed activity. Accordingly, the hearing contemplated in this Order may be the only hearing at which the unique issues identified above may be publicly considered. A hearing will therefore provide a unique opportunity for interested individuals or organizations to be involved and express support or concerns related to the project.

The degree of public interest has also demonstrated the public’s desire to be informed about the proposed project. Therefore, holding a hearing on this application will provide additional transparency that will be beneficial to the public.

- II. 9 NYCRR 580.3 provides that “the Agency may determine to limit the issues to be considered at the hearing, in which case it will advise the project sponsor of its determination, and the notice of hearing will specify the issues to be considered.”
- III. Notwithstanding the above, 9 NYCRR 580.9 provides “the hearing officer may direct the parties to appear for a conference to simplify, define, limit or resolve issues. The hearing officer shall summarize for the record the action taken at the conference and any admissions, stipulations or agreements which were made by the parties.”
- IV. Pursuant to 9 NYCRR 580.14(b)(3), the hearing officer may also order a brief, informal presentation at the outset of the hearing to answer questions from members of the public who are not parties to the hearing.
- V. The Agency is not requesting that the hearing officer make findings of fact or conclusions of law pursuant to 9 NYCRR 580.14(a)(5); the Agency reserves to itself the exclusive right to make its own findings of fact and conclusions of law as part of its final Agency determination and order pursuant to 9 NYCRR 580.18.

## **ORDER**

**THE AGENCY HEREBY ORDERS** this matter to public hearing and, pursuant to 9 NYCRR 580.3, directs the following issues be considered at hearing:

- Issue #1:** Whether the proposed howitzer testing range is compatible with the Adirondack Park land use and development plan, including, but not limited to, whether the howitzer testing range is compatible with the purpose of insuring overall conservation, protection, preservation, development and use of the unique scenic, wildlife, recreational, open space, ecological, and natural resources of the Adirondack Park. [APA Act § 809(10)(a)]
- Issue #2:** Whether the proposed howitzer testing range is a compatible use within the Rural Use land area classification, and whether it is compatible with the character description and purposes, policies and objectives of the Rural Use land area classification, including but not limited to whether the proposed use should be considered a “commercial use;” and if not, whether the proposed howitzer testing range is a compatible use. [APA Act § 809(10)(b)]
- Issue #3:** Whether the proposed howitzer testing range would have an undue adverse impact upon the natural, scenic, ecological, wildlife, recreational or open space resources of the park [APA Act § 809(10)(e)], considering the development considerations contained in APA Act § 805(4) and 9 NYCRR 574.5, including, but not limited to the following:
- i. Whether the howitzer testing range involves any potential discharges, residues, or other pollutants that may affect water resources, land resources, or air resources. [APA Act § 805(4)(a)(1) – (3)]
  - ii. Whether the howitzer testing range would have an undue adverse impact to land resources within the park, such as soils, forest and open space resources, including the quality and availability of nearby lands for outdoor recreational purposes. [APA Act § 805(4)(a)(1) and (2)]
  - iii. Whether there is a reliable, comprehensive and accurate projection of the noise that will be produced by the howitzer testing range and whether such noise will have an undue adverse impact upon the Park's resources. [APA Act § 805(4)(a)(1)]

- iv. Whether noise mitigation exists or whether they are practical to implement that would avoid undue impact to the Park's resources. [APA Act § 805(4)(a)(1)]
- v. Whether the howitzer testing range will create undue ecological impacts or disruption to native or migrating wildlife and their habitats at or near the howitzer testing range, considering species' sensitivities. [APA Act § 805(4)(a)(5) and (6)]
- vi. Whether the howitzer testing range could have health and safety impacts relating to the operation, storage, and transport of military equipment. [APA Act § 805(4)(c)(2)(a)]
- vii. Whether the howitzer testing range could impact nearby Wilderness and Wild Forest areas. [APA Act § 805(4)(c)(2)(a)]
- viii. Whether the howitzer testing range would have economic impact on adjoining and nearby land uses, such as property values. [APA Act § 805(4)(c)(2)(a)]

**FURTHER ORDERED**, the following are issues for which no testimony or evidence is necessary:

1. Conformance with the overall intensity guidelines.

The project does not propose development that would exceed the overall intensity guidelines for a Rural Use land use area that allows a maximum of 75 principal buildings per square mile, pursuant to APA Act § 809(10)(c) and APA Act § 805(3)(f)(3).

2. Shoreline Restrictions.

No shorelines have been identified on the proposed project site, pursuant to APA Act §§ 810(10)(d) and 806 and 9 NYCRR 575.

**FURTHER ORDERED**, the hearing officer shall have all the authority provided in 9 NYCRR 580.9, and the hearing notice shall direct potential parties to address the issues stated above in any petition for party status. The hearing officer may in their sole discretion simplify, define, limit, or resolve the scope of issues, or add an issue if not expressly excluded and for which a party makes an offer of proof to ensure that the record covers substantive and significant issues relating to the findings or determinations required of the Agency under APA Act § 805(4) and § 809(10). The determinations of the hearing officer on party status, issues and the conduct of the hearing shall be reported for the record prior to beginning the hearing as provided in 9 NYCRR 580.9.

**FURTHER ORDERED**, that the applicant be notified of the Agency's intent to hold a public hearing on the project before the Agency renders its decision to approve or disapprove the project, or to approve it subject to conditions.

**FURTHER ORDERED**, that the applicant be given, upon fifteen days' written notice by certified mail, an opportunity to submit a new application.

**NOW, THEREFORE**, upon all of the foregoing and under authority of the Agency's action, due deliberation having been had upon all of the foregoing, and upon a majority vote of Agency members on [DATE] duly had and recorded,

ORDER issued this    day  
of    , 2025.

E N T E R

ADIRONDACK PARK AGENCY

BY:  
Barbara Rice  
Executive Director